

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143

Honorable T.S. Ellis, III

Pretrial conference: Jan. 15, 2021

**CONSENT MOTION TO SEAL AND MEMORANDUM IN SUPPORT OF SAME**

Pursuant to Local Criminal Rule 49(E), defendant, Zackary Ellis Sanders, through counsel, moves for an order permitting the defense to file under seal portions of Mr. Sanders's Motion to Compel Trial Discovery ("Motion"), as well as portions of exhibits 1 and 2. A proposed order is attached for the consideration of the Court.<sup>1</sup> The Government has previously consented to Mr. Sanders filing under seal material that relates to discovery that is under a protective order. Mr. Sanders seeks sealing for the same reasons here. In support of this motion, the defense further states:

**I. Item to be Filed Under Seal, and Necessity for Sealing**

A. Mr. Sanders asks the Court to seal portions of his Motion and exhibits 1 and 2, which pertain to and refer to material that is under a protective order. *See* 1:20-MJ-114 ECF No.

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<sup>1</sup> The document to be filed under seal will be filed with the Court non-electronically pursuant to Local Criminal Rule 49(E) and the Electronic Case Filing Policies and Procedures (*see* p. 21). Pursuant to the Local Rules, the sealed document is to be treated as sealed pending the outcome of this motion.

28. The defense has endeavored to seal only the minimum necessary portion of its Motion and exhibits, and will file a redacted version on the public docket.

B. Filing the Motion partially under seal is necessary because it contains discussion of material that is under a protective order and exhibits 1 and 2 discuss material under a protective order. *See* 1:20-MJ-114 ECT No. 28. Exhibits 3 and 4 should not be sealed: exhibit 3 is correspondence between the defense and Government that does not mention material subject to the protective order, and exhibit 4 is a publicly available report.

C. Counsel for Mr. Sanders has considered procedures other than filing under seal and none will suffice to protect disclosure of this information subject to a protective order.

## **II. Previous Court Decisions Which Concern Sealing Documents**

The Court has the inherent power to seal materials submitted to it. *See United States v. Wuagneux*, 683 F.2d 1343, 1351 (11th Cir. 1982); *State of Arizona v. Maypenny*, 672 F.2d 761, 765 (9th Cir. 1982); *Times Mirror Company v. United States*, 873 F.2d 1210 (9th Cir. 1989); *see also Shea v. Gabriel*, 520 F.2d 879 (1st Cir. 1975); *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980); *In re Braughton*, 520 F.2d 765, 766 (9th Cir. 1975). “The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

## **III. Period of Time to Have the Document Under Seal**

The materials to be filed under seal would need to remain sealed as long as the protective order remains in effect.

Accordingly, Mr. Sanders respectfully requests that this Court enter an order allowing the defense to file under seal portions of his Motion and exhibits 1 and 2.

Dated: November 27, 2020

Respectfully submitted,  
/s/ Jonathan S. Jeffress  
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*Attorneys for Defendant*  
*Zackary Ellis Sanders*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 27, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to counsel of record.

/s/ Jonathan Jeffress  
Jonathan Jeffress

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**[PROPOSED] SEALING ORDER**

This matter having come before the Court on the defendant's Consent Motion for Leave to File Under Seal pursuant to Local Criminal Rule 49(E). Accordingly, for good cause shown, the Motion for Leave to File Under Seal is granted.

It is so ORDERED.

\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE

Date: \_\_\_\_\_

Alexandria, Virginia